IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

WP(C).No. 15836 of 2007(I)

PETITIONER:

A.O.PAILY, S/O.OUSEPH,
ARYCHALIL HOUSE, ARAPETTAKUNNU P.O.,
PADINJARAETHARA, WAYANAD DISTRICT.

BY ADV. SRI.J.DEVADANAM
SRI.VINOD J.DEV
SRI.PRAMOD J.DEV

RESPONDENTS:
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1. **KUPPADITHARA MILK PRODUCERS CO-OPERATIVE SOCIETY W3 (D) APCOS, PUTHUSERYKADAVU P.O., MANANTHAVADY (VA) WAYANAD, REPRESENTED BY ITS SECRETARY.**

2. **THE DAIRY FARM INSTRUCTOR, KALPETTA.**

3. **THE DEPUTY DIRECTOR, DISTRICT MILK DEVELOPMENT DEPARTMENT, WAYANAD.**

BY GOVT.PLEADER SRI.P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

W.P.(C).No.15836 OF 2007

Dated this the 25th day of May, 2007

JUDGMENT

The prayer in the writ petition as amended is to issue a writ of mandamus or such other writ, order or direction, directing the respondents to postpone the election proposed to be held on 28-05-2007 to any other date after completing the procedural formalities as stipulated by law, to consider and take a decision on Ext.P2 representation besides challenging Ext.P1.

2. I heard learned counsel for the petitioner and the learned Government Pleader also.

3. Case of the petitioner is that he is the member of the respondent society and the second respondent has been appointed as the Returning Officer for the election and he has issued notification deciding the date of election and the mode of election. Ext.P1 is the copy of the notification dated 21-04-2007. It is the case of the petitioner that it was handed over to certain members

only on 14-05-2007. It is the further case that petitioner has submitted Ext.P2 representation seeking postponement of the election and that the same has not been considered. It is the further case that preliminary voters list was not published properly and notice was given to a few members after the date prescribed for the publication of the voters list. The main contention of the petitioner is that notice of the election was not given in accordance with law. The writ petition is filed on 24/05/2007 and it comes up before me on 25/05/2007.

In regard to the election to be held on 28/05/2007, just three days from today, admittedly, petitioner has a remedy, if he is aggrieved by the election, under section 69. I am of the view that it may not be proper to exercise my power under Article 226. Writ petition fails and it is dismissed without prejudice to the right of the petitioner to challenge the election in accordance with law, if he is so advised.

K.M.JOSEPH
JUDGE

sv.